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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Friedrich Stoeffler

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

CHIN, RANDALL E

ART UNIT

PAPER NUMBER

3723

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/562,271	Applicant(s) STOEFFLER ET AL.	
	Examiner Randall Chin	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-12 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03182010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

In the single amendment filed 12 July 2010 made to the specification, reference to a **page and line number** where to make the change is missing.

Appropriate correction is required.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: narrow slots **63, 65** as recited on p. 7, line 6.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 6, 7 and 9-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Lev et al. 2003/0115695 (hereinafter Lev).

As for claim 1, Lev teaches in Figs. 9-12, for example, a power toothbrush, comprising a brushhead assembly, a handle to which the brushhead assembly is removably attached, the handle having a fixed receiving portion, the brushhead assembly including a force conversion assembly (paragraph [0058]) adapted for mating with the receiving portion of the handle, the brushhead assembly further including a mounting shaft (Fig. 11) in which is positioned a bristle unit for brushing teeth (Fig. 9), wherein the force conversion assembly is adapted and arranged to convert a driving force into a movement of the mounting shaft to move the bristle unit in a manner to accomplish cleansing of the teeth (paragraph [0058]), wherein the power toothbrush includes an attachment system which includes a first connection arrangement 158, 159 between the force conversion assembly and the fixed receiving portion of the handle for preventing rotational movement of the brushhead assembly relative to the handle, wherein the force conversion assembly further includes at least

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one engaging member 156 which, when the brushhead assembly is operatively positioned in the receiving portion, extends at least partially into an opening 157 in the receiving portion of the handle, which tends to prevent translational movement of the brushhead assembly relative to the handle during operation of the toothbrush 126, wherein the attachment system is deemed configured and arranged such that the brushhead assembly 132 is removed from the handle 128 or inserted into the handle 128 linearly, directly toward and away from the handle 128, without rotation of the brushhead assembly 132 being necessary to tighten the brushhead assembly onto the handle or loosen it therefrom (paragraphs {0056}, [0058], and [0059]).

As for claim 2, the force conversion assembly comprises a combination of a spring assembly (since engaging member or adaptor 156 acts as a spring since it snaps into recesses 157) which is responsive to a driving force to move the mounting shaft, and a carrier assembly 154 which fits together with the spring assembly and engages the receiving portion of the handle.

As for claim 6, the first connection arrangement includes a notch or opening 159 in a wall portion of the force conversion combination, adapted to mate snugly with a projection or rib 158 portion on an internal surface of the receiving portion of the handle 128, at final assembly.

As well as claim 7 is understood, there is a second connection arrangement which includes a cut-out section 157 in the receiving portion, the cut-out section 157 extending downwardly from an upper edge of the receiving portion, and wherein the

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force conversion assembly includes a portion 156 which mates snugly with said cut-out portion.

As for claim 9, the first and second connection arrangements approximately oppose each other around the peripheries of the receiving portion and the force conversion assembly (Figs. 9 and 10).

As for claim 10, Lev discloses in Figs. 13 and 14, for example, a power toothbrush, comprising a brushhead assembly 164, a handle to which the brushhead assembly is removably attached, the handle having a fixed receiving portion, the brushhead assembly including a force coupling assembly adapted and arranged to couple a driving force produced by a driver portion of the power toothbrush to a mounting shaft on which a set of bristles is mounted, wherein the force coupling assembly includes a slot therein into which a rib member 178 on an internal surface of the fixed receiving portion of the handle snugly fits to prevent rotational movement of the brushhead assembly relative to the handle and wherein the force coupling assembly includes at least one engaging member 174 which, when the brushhead assembly 164 is operatively positioned in the receiving portion, extends at least partially into a notch or opening 176 in the receiving portion, tending to prevent translational movement (the term "translational" is merely relative here) of the brushhead assembly relative to the handle during operation of the toothbrush (paragraphs [0061] and [0062]).

As for claim 11, the attachment system is deemed configured and arranged to permit the brushhead assembly 164 to be removed from the handle 162 or inserted into

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the handle 162 in a linear movement thereof, without rotation of the brushhead assembly.

As for claim 12, Lev teaches in Figs. 13 and 14, for example, a power toothbrush comprising a brushhead assembly which includes an attachment system, a handle to which the brushhead assembly is removably attached, the handle having a fixed receiving portion, wherein the brushhead assembly 164 includes a first connection portion 174 which mates with a first part 176 of "the fixed receiving portion to prevent rotational movement of the brushhead assembly relative to the handle and a second, separate connection portion which mates with a second, separate part 178 of the receiving portion to prevent translational movement of the brushhead assembly relative to the handle, wherein the attachment system is deemed configured and arranged to permit the brushhead assembly 164 to be removed from the handle or inserted into the handle linearly, without rotation of the brushhead assembly 164 relative to the handle (paragraphs [0061] and [0062]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lev in view of Moret et al. 3,927,435 (hereinafter Moret).

The Lev reference discloses all of the recited subject matter as set forth above with the exception of the spring assembly/carrier assembly combination including two opposing spring finger members which depend downwardly from an upper edge thereof, mating securely with two associated openings in the receiving portion to prevent translational movement of the brushhead assembly relative to the handle, wherein each spring finger member includes an ear portion at a lower end thereof which fits into its associated opening in the receiving portion, and further wherein the carrier assembly includes a portion thereof adapted to carry a fluid pump for moving fluid from a reservoir to the bristle unit. The patent to Moret discloses a brushhead assembly attachment system including two opposing spring finger members 34, 34 which depend downwardly from an upper edge of brushhead 13, mating securely with two associated slots or openings 37, 37 in a receiving portion to prevent translational movement of the brushhead assembly relative to the handle, wherein each spring finger 34, 34 member includes an ear portion 39, 39 at a lower end thereof which fits into its associated opening in the receiving portion (Figs. 2-4), and further wherein the carrier assembly includes a portion thereof adapted to carry a fluid pump for moving fluid from a reservoir to the bristle unit (col. 3, lines 1-11; Fig. 1). It would have been obvious to one of ordinary skill in the art to have modified Lev's brushhead assembly arrangement such that there are two opposing spring finger members which depend downwardly from an upper edge thereof, mating securely with two associated openings in the receiving portion to prevent translational movement of the brushhead assembly relative to the handle, wherein each spring finger member includes an ear portion at a lower end

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thereof which fits into its associated opening in the receiving portion in order to provide for a more secure connection between the brushhead and handle, and further wherein the carrier assembly includes a portion thereof adapted to carry a fluid pump for moving fluid from a reservoir to the bristle unit to improve the versatility of the power toothbrush by improving cleaning capabilities by utilizing moving fluid, all as taught by Moret.

Allowable Subject Matter

7. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Applicant's arguments filed 12 July 2010 have been fully considered but they are not persuasive.

All of applicant's arguments have been considered in their entirety, however, are deemed unpersuasive.

Applicant primarily argues that there is no structure in Lev which prevents head portion 132 from rotating relative to handle 128 as is required by claims 1, 10 and 12 which now positively recite specific structure to prevent such rotation. Applicant further asserts that, most importantly, there is nothing to prevent seal 154 from rotating relative to handle 128.

With respect to applicant's argument that there is nothing to prevent seal 154 from rotating relative to handle 128, Lev never explicitly mentions that this is the case. In other words, the mere fact that Lev is silent as to whether seal 154 rotates does not imply that it does rotate or is capable of rotating. Thus, applicant's assertion that there is nothing to prevent seal 154 from rotating relative to handle 128 is merely speculative attorney's argument unsupported by objective technical evidence on the issue. Arguments of counsel cannot take the place of evidence in the record. In fact, it would not be beneficial or of efficient design if seal 154 were permitted to rotate as any possible rotation would clearly hinder the effectiveness of its "sealing" capabilities. In any case, element or seal 154 is still considered part of the handle and still defines a "fixed" receiving portion when the entire power toothbrush device is assembled. Accordingly, it is the position of the examiner that Lev discloses structure that prevents head portion 132 from rotating relative to handle 128 as explained in the above rejections.

This application is a request for continuation. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/
Primary Examiner, Art Unit 3723